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PATENT  
USSN 10/560,222  
Atty Docket: VFM-40030

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

|                                       |   |                 |
|---------------------------------------|---|-----------------|
| In re Application of:                 | ) | Conf No.: 2695  |
| Wilhelm Mayer                         | ) |                 |
| For: ANTI-CLIMBING DEVICE FOR RAILWAY | ) | Group Art Unit: |
| CARRIAGES                             | ) |                 |
| Serial No. 10/560,222                 | ) | Examiner:       |
| Filed: December 12, 2005              | ) |                 |

**LETTER IN RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS**  
**UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED**  
**OFFICE (DO/EO/US)**

TO:  
MAIL STOP MISSING PARTS  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Notification of Missing Requirements (copy enclosed) mailed on January 18, 2007 and the Decision on Petition to Withdraw (copy enclosed), applicant is herewith filing the enclosed documents to complete the filing of the above identified patent application:

1. A Declaration signed by the inventor, Wilhelm Mayer.
2. Authorization to charge Deposit Account No. 504041, \$260.00 for the Government surcharge on behalf of a large entity for late filing of the executed Declaration from the inventor.

## CERTIFICATE OF FACSIMILE TRANSMISSION

The undersigned attorney hereby certifies that this Response to Notification of Missing Requirements, comprising 9 pages, was sent by facsimile transmission to the Commissioner of Patents at facsimile telephone no. 571/273-8300, on August 15, 2007.

08/16/2007 GFREY1 00000092 504041 10560222

01 FC:1617 130.00 DA  
02 FC:1618 130.00 DA

  
 Thomas R. Vigil, Reg. No. 24,542

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PATENT  
USSN 10/560,222  
Atty Docket: VFM-40030

Respectfully submitted,

  
Thomas R. Vigil, Reg. No. 24,542

Thomas R. Vigil  
PYLE & PIONTEK, LLC  
221 N. LaSalle - Room 2036  
Chicago, ILLINOIS 60601

Telephone: 312/236-8123  
Facsimile: 312/236-5574

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UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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|                             |                       |                  |
|-----------------------------|-----------------------|------------------|
| U.S. APPLICATION NUMBER NO. | FIRST NAMED APPLICANT | ATTY. DOCKET NO. |
| 10/560,222                  | Wilhelm Mayer         | VFM-40030        |

|                               |
|-------------------------------|
| INTERNATIONAL APPLICATION NO. |
|-------------------------------|

PCT/AT04/00122

|                  |               |
|------------------|---------------|
| I.A. FILING DATE | PRIORITY DATE |
|------------------|---------------|

04/07/2004

06/13/2003

Pyle & Piontek  
221 N Lasalle - Room 2036  
Chicago, IL 60601

CONFIRMATION NO. 2695

371 FORMALITIES LETTER

\*OC000000022041541\*

Date Mailed: 01/18/2007

**NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated / Elected Office (37 CFR 1.495).

- Copy of the International Application filed on 12/12/2005
- English Translation of the IA filed on 12/12/2005
- Copy of the International Search Report filed on 12/12/2005
- Preliminary Amendments filed on 12/12/2005
- Information Disclosure Statements filed on 12/12/2005
- U.S. Basic National Fees filed on 12/12/2005
- Priority Documents filed on 12/12/2005
- Non-English Language Application filed on 12/12/2005
- Specification filed on 12/12/2005
- Claims filed on 12/12/2005
- Abstracts filed on 12/12/2005
- Drawings filed on 12/12/2005

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Translation of the application into English. The current translation of the application into English is defective as described below. Note a processing fee will be required if submitted later than 30 months from the priority date.
  - The text in the drawings has not been properly translated.
- Processing fee of \$130 for providing the translation of the application and/or the Annexes later than 30 months from the priority date (37 CFR 1.492(l)).

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- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

## SUMMARY OF FEES DUE:

Total additional fees required for this application is **\$260** for a Large Entity:

- \$130 Surcharge.
- \$130 for English translation surcharge required.

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.  
<https://portal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at 1-866-217-9197 or visit our website at <http://www.uspto.gov/ebc>.

**If you are not using EFS-Web to submit your reply, you must include a copy of this notice.**

BARBARA A CAMPBELL

Telephone: (703) 308-9140 EXT 217

## PART 1 - ATTORNEY/APPLICANT COPY

| U.S. APPLICATION NUMBER NO. | INTERNATIONAL APPLICATION NO. | ATTY. DOCKET NO. |
|-----------------------------|-------------------------------|------------------|
| 10/560,222                  | PCT/AT04/00122                | VFM-40030        |

FORM PCT/DO/EO/805 (371 Formalities Notice)



## UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
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18 JUL 2007

Pyle & Piontek  
221 North LaSalle - Room 2036  
Chicago, IL 60601

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JUL 21 2007

In re Application of  
MAYER, Wilhelm  
Serial No.: 10/560,222  
PCT No.: PCT/AT04/00122  
Int. Filing Date: 07 April 2004  
Priority Date: 13 June 2003  
Atty. Docket No.: VFM-40030  
For: ANTI-CLIMBING DEVICE FOR  
RAILWAY CARRIAGES

DECISION

This decision is issued in response to applicant's "Petition to Withdraw, Cancel or Rescind the Notification of Missing Requirements Mailed on January 18, 2007" filed 15 February 2007, which is being treated as a Petition under 37 CFR 1.181.

**BACKGROUND**

On 07 April 2004, applicant filed international application PCT/AT04/00122 which claimed a priority date of 13 June 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 23 December 2004. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 13 December 2005.

On 12 December 2005, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. 371. Filed with the Transmittal Letter were, among others, the requisite basic national fee; translation of the international application; and a preliminary amendment.

On 18 January 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. Further, the notification indicated that the translation of the international application submitted on 12 December 2005 was defective. Specifically, drawing sheet 1/7 contained text that had not been translated. The notification set a two (2) month period for response.

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On 15 February 2007, applicant filed "Petition to Withdraw, Cancel or Rescind the Notification of Missing Requirements Mailed on January 18, 2007" which included a translation of the international application.

### DISCUSSION

Applicant states in the present petition, "applicant has investigated the drawings and finds that there was extraneous materials consisting of several words on the first sheet of drawings. Since this extraneous material is not germane or required for this application, applicant is deleting this material from the first sheet of drawings. As stated above, a review of the translation of the international application filed 12 December 2005 included foreign text in the drawings. PCT Rule 49.5(d) states, "[i]f any drawing contains text matter, the translation shall be furnished either in the form of a copy of the original drawing with the translation pasted on the original text matter or in the form of a drawing executed anew." (See also section 1893.01(a)(1) of the Manual of Patent Examining Procedure.) In this case, the translation of the international application filed on 12 December 2005 included untranslated text on drawing sheet 1/7, which is improper. Therefore, the mailing of the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) on 18 January 2007 was proper and applicant's petition to withdraw (cancel or rescind) under 37 CFR 1.181 is dismissed without prejudice.

The (replacement) drawing sheet 1/7 furnished with the present petition is in compliance with PCT Rule 49.5(d). The translation of the international application, which includes replacement drawing sheet 1/7, will be given a receipt date of 15 February 2007.

The \$130.00 processing fee under 37 CFR 1.492(i) for providing an English translation later than 30 months from the earliest claimed priority date is still required.

### CONCLUSION

The petition under 37 CFR 1.181 is DISMISSED without prejudice.

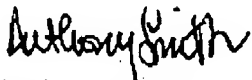
The period for response set forth in the Notification of Missing Requirements, mailed 18 January 2007, remains in effect for furnishing: 1) an oath or declaration in compliance with 37 CFR 1.497; (2) the \$130 surcharge for under 37 CFR 1.497(h) for filing an oath or declaration later 30 months from the earliest claimed priority date; and (3) the \$130.00 processing fee under 37 CFR 1.492(i) for providing an English translation later than 30 months from the earliest claimed priority date. Failure to file a proper response in a timely manner will result in ABANDONMENT of the application.

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box

Serial No.: 10/560,222

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1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Anthony Smith  
Attorney-Advisor  
Office of PCT Legal Administration  
Tel: (571) 272-3298  
Fax: (571) 273-0459